

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cordell Hackshaw	Team: Team # 2	CCRB Case #: 200915763	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 10/04/2009 8:00 PM	Location of Incident: § 87(2)(b)	Precinct: 88	18 Mo. SOL 4/4/2011	EO SOL 4/4/2011	
Date/Time CV Reported Tue, 10/06/2009 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/08/2009 4:07 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Basil Omisanya	12552	939148	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Scott Kletzkin	00710	933897	088 PCT
2. POF Kimberly Mccarthy	30340	942262	088 PCT
3. POF Ethel Johnson	31128	931499	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Basil Omisanya	Force: PO Basil Omisanya used physical force against § 87(2)(b)	§ 87(2)(b)

## Case Summary

§ 87(2)(b) filed this complaint with the Internal Affairs Bureau (IAB) via telephone on October 6, 2009 (**Encl. B1-B2**). IAB subsequently forwarded the complaint, log #09-49551, to the Civilian Complaint Review Board (CCRB) on October 8, 2009 (**Encl. B3-B4**).

On October 4, 2009, at approximately 8:00 p.m. Sgt. Scott Kletzkin, PO Ethel Johnson, PO Kimberly McCarthy and PO Basil Omisanya were at § 87(2)(b) in Brooklyn, responding to a family custodial dispute involving § 87(2)(b) and § 87(2)(b). The following allegation resulted:

- **Allegation A – Force: PO Basil Omisanya used physical force against § 87(2)(b)**  
As this investigation has determined that § 87(2)(b) was resisting arrest and refusing to comply with lawful orders, it is recommended that **Allegation A** be **Exonerated**.

## Results of Investigation

### Civilian Statements

#### Complainant: § 87(2)(b)

- § 87(2)(b) is the son of § 87(2)(b) the nephew of § 87(2)(b) and grandson of § 87(2)(b). He is the father of the two children § 87(2)(b) and § 87(2)(b) involved in the incident and also the ex-boyfriend of § 87(2)(b). § 87(2)(b) was not present on the scene during this incident. Therefore, he did not provide an official statement regarding this incident.

#### Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female who is 5'5" tall, weighs 140lbs with black hair and brown eyes.

### CCRB Statement

The CCRB interviewed § 87(2)(b) on October 30, 2009 (**Encl. B5-B7**). On October 4, 2009, § 87(2)(b) was home at § 87(2)(b) in Brooklyn with her great nephews who went to church with her mother § 87(2)(b). Officers came to the apartment at approximately 6:00 p.m. with § 87(2)(b). § 87(2)(b) went outside and spoke with the officers, to explain that § 87(2)(b) is a drug addict. § 87(2)(b) went outside and told § 87(2)(b) to come inside but she refused. There was a black male officer identified through investigation as PO Basil Omisanya, who told § 87(2)(b) that they all have to go down to the 88<sup>th</sup> Precinct stationhouse as directed by his sergeant, identified through investigation as Sgt. Scott Kletzkin. § 87(2)(b) told PO Omisanya that she was not going anywhere with him and went back into the apartment. The officers explained to § 87(2)(b) that they had to hand over the children. However, § 87(2)(b) refused to do so as the children were not properly dressed and sleeping. PO Omisanya told § 87(2)(b) that if she did not open the door, he would have to call the SWAT Team and a hostage negotiator. § 87(2)(b) told PO Omisanya that he could do whatever he wanted. § 87(2)(b) got scared and said that she would hand over the children but § 87(2)(b) stated that they had to be dressed first.

§ 87(2)(b) handed over the children to the officers. PO Omisanya rushed over to her, pushed her and twisted her arm. § 87(2)(b) and PO Omisanya got into a struggle.

§ 87(2)(b) began to scream out in pain as PO Omisanya was re-injuring her arm. § 87(2)(b) previously injured her arm in a car accident prior to this incident. § 87(2)(b) was also on the phone with her nephew § 87(2)(b). PO Omisanya was trying to get the phone from § 87(2)(b) but she continued struggling with PO Omisanya in order to prevent him from getting the phone. PO Omisanya eventually placed § 87(2)(b) in handcuffs. None of the officers used profanity to anyone in the apartment. PO Johnson took the children and stood outside PO McCarthy placed § 87(2)(b) in handcuffs. When they went outside, § 87(2)(b) saw that her sister § 87(2)(b) was already in handcuffs.

§ 87(2)(b) stated that PO Omisanya injured her arm during his interaction with her and had to go back to physical therapy. § 87(2)(b) had to take more medication because of her interaction with the officers. She went to the emergency room of § 87(2)(b) for treatment on § 87(2)(b).

**Witness:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female who is 5'9" tall, weighs 170lbs with black hair and brown eyes. § 87(2)(b)

**CCRB Statement**

The CCRB interviewed § 87(2)(b) on February 22, 2010 (Encl. B9-B12). § 87(2)(g) Two officers arrived on the scene, identified through investigation as PO Basil Omisanya and PO Kimberly McCarthy. § 87(2)(b) explained that § 87(2)(b) was currently on methadone, Zanax as well as another combination of drugs and should not have the children. The situation seemingly was not being resolved and 20 minutes after the first two officers initially arrived, two unidentified white male officers came on the scene. After 10 more minutes, the situation was on going; one of the officers asked a sergeant to respond to the scene. A white male sergeant came on the scene with a black female officer, identified through investigation as Sgt. Scott Kletzkin and PO Ethel Johnson respectively.

Sgt. Kletzkin spent another 20 minutes trying to figure out the situation between § 87(2)(b) and § 87(2)(b). § 87(2)(b) headed for the apartment in order to tell § 87(2)(b) and § 87(2)(b) that they needed to hand over the children. § 87(2)(b) stated that the children were not dressed. As § 87(2)(b) was going into the apartment, she pulled the door but PO McCarthy was also trying to get into the apartment, pushed the door. The door struck § 87(2)(b) in the face but there was no injury as § 87(2)(b)'s foot stopped the impact of the door. PO McCarthy then quickly placed § 87(2)(b) in handcuffs. Another officer unidentified officer took § 87(2)(b) and placed her in a patrol car. § 87(2)(b) never saw what took place inside the apartment. § 87(2)(b) never saw officers interacting with a § 87(2)(b).

**Witness:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female who is 5'2" tall, weighs 179lbs with black hair and brown eyes.

**CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on October 30, 2009 (Encl. B14-B16). § 87(2)(g) After the children were handed over to officers, § 87(2)(b) closed the apartment door. However, a white male

officer, identified through investigation as Sgt. Kletzkin pushed open the door and stated that § 87(2)(b) and § 87(2)(b) were going to be arrested. A black male officer, identified through investigation as PO Basil Omisanya proceeded to place § 87(2)(b) in handcuffs. PO Omisanya approached § 87(2)(b) and grabbed her. He began twisting her arm around. § 87(2)(b) screamed out in pain and PO Omisanya told § 87(2)(b) “Shut the fuck up!” § 87(2)(b) told PO Omisanya to stop or else he would risk causing injury to § 87(2)(b).

### **NYPD Statements:**

#### **Subject Officer: PO BASIL OMISANYA**

- PO Basil Omisanya is a § 87(2)(b) -old black male who is 5’10” tall, weighs 180lbs with black hair and brown eyes.
- On October 4, 2010, he worked from 3:00 p.m. to 11:35 p.m. with PO Kimberly McCarthy. They patrolled sectors F and G of the 88<sup>th</sup> Precinct. They were both in uniform.

#### **Memo book**

At 6:36 p.m., there was a call for a family dispute at § 87(2)(b). At 8:16 p.m., PO McCarthy arrested one person. § 87(2)(b) the mother, came to pick up her children from the grandparent but the grandmother, § 87(2)(b) refused and stated that she will not release the children. § 87(2)(b) added that neither PO McCarthy nor PO Omisanya would be able to take the children from her. § 87(2)(b) had a court order stating that the great grandmother, § 87(2)(b) was to return the children at 12:00 p.m. on Sunday. § 87(2)(b) was arrested because of her disregard for the court order. § 87(2)(b) and the great aunt, § 87(2)(b) were arrested for § 87(2)(b) (Encl. C1-C3).

#### **CCRB Statement**

The CCRB interviewed PO Omisanya on February 3, 2010 (Encl. C4-C5). PO Omisanya and PO McCarthy responded to § 87(2)(b) in response to a family dispute call. They were the initial officers on the scene. When they arrived on the scene, they saw a female distraught on the side of the road. The female, identified as § 87(2)(b) approached the patrol car stating that she came to pick up her children but the grandmother would not release the children to her. § 87(2)(b) the grandmother came over and stated that she was not going to hand the children as she had court documents stating that she had custody of the children. PO Omisanya stated that § 87(2)(b) had a petition for custody of the children where as § 87(2)(b) had a court order for custody. § 87(2)(b) and § 87(2)(b) began arguing with each other. The situation seemed to be getting out of hand so PO Omisanya called his supervisor Sgt. Scott Kletzkin after 20-25 minutes of trying to resolve the situation. When Sgt. Kletzkin came to the scene, § 87(2)(b) stated that she had not seen the children and do not know whether they were okay. Sgt. Kletzkin decided that they should determine the wellbeing of the children.

Sgt. Kletzkin, PO Omisanya and PO McCarthy went to the apartment door and explained that they only wish to see the children and determine whether they were okay. However, § 87(2)(b) and § 87(2)(b) continued to refuse the officers entry into the apartment. The officers rang the bell again but § 87(2)(b) and § 87(2)(b) slammed the door on the officers. § 87(2)(b) attempted to go into the apartment but she was unable to do so because the screen door was locked. § 87(2)(b) continued to prevent the officers from entering and eventually was placed in handcuffs. She was then placed into a patrol car. It was about an hour at this point since PO Omisanya arrived on the scene.

Eventually § 87(2)(b) opened the door and officers were allowed inside the apartment. The two children were handed off to the police officers who then in turn gave the children to § 87(2)(b). § 87(2)(b) and § 87(2)(b) were both arrested for § 87(2)(b). § 87(2)(b) was resisting arrest as she flailed her arms. Sgt. Kletzkin, PO McCarthy and PO Omisanya all worked together to place § 87(2)(b) in handcuffs. PO Omisanya did not recall § 87(2)(b) complaining of injuries. PO Omisanya did not recall either PO McCarthy or PO Johnson speaking discourteously to a female civilian.

**Witness Officer: PO KIMBERLY MCCARTHY**

- *PO McCarthy is a § 87(2)(b)-old white while who is 5'9" tall, weighs 200lbs with brown hair and green eyes.*
- *PO McCarthy worked from 3:00 p.m. on October 4, 2009 to 5:45 a.m. on October 5, 2009. She was working with PO Basil Omisanya and they were both assigned to patrol sectors F and G.*

**Memo book**

At 6:36 p.m., PO McCarthy received a radio run to respond to § 87(2)(b) for a family dispute. At 6:41 p.m., she arrived on the scene. The complainant, § 87(2)(b) stated that her children were inside § 87(2)(b) and they were in her full custody and only at the current location for supervised visitation with their father from Saturday 12:00 p.m. to Sunday 12 p.m. § 87(2)(b) was hysterical and uncontrollably crying. § 87(2)(b) the paternal grandmother for the children was showing a petition for custody that was placed on October 2, 2009 due to appear in court on December 4, 2009. § 87(2)(b) kept saying that the petition overrode the court order for custody and told § 87(2)(b) she was not getting her kids. § 87(2)(b) also stated that § 87(2)(b) was incapable of taking care of her children, was high, had methadone in her purse, was a "junkie," and she lived with her lover who was a female. § 87(2)(b) stated that she lived with her sister, which was okayed by the court papers. § 87(2)(b) was screaming that § 87(2)(b) was not getting her children and told PO McCarthy that she was calling IAB. § 87(2)(b) noted PO McCarthy's shield number, the RMP number as well as took a photograph of PO McCarthy.

§ 87(2)(b) kept stating that the petition overrode the court order. At no time was the biological father, who made the actual petition for custody, present on the scene for any officer to see. Sgt. Kletzkin, PO Omisanya and PO Johnson were also present. When Sgt. Kletzkin asked § 87(2)(b) to open door to house to make sure children were okay. § 87(2)(b) refused then her sister § 87(2)(b) came out with a copy of petition screaming, "ain't nobody taking these kids." When the officers approach the front door, § 87(2)(b) ran back inside and slammed the door as PO McCarthy tried to grab the doorknob. As PO McCarthy was attempting to gain access, § 87(2)(b) pushed PO McCarthy's arm off the doorknob. PO McCarthy placed her in handcuffs and placed her in the back of the patrol car for § 87(2)(b). When PO McCarthy went back to the house, § 87(2)(b) and § 87(2)(b) both yelled, "nobody getting these kids" and slammed door in officers' face. § 87(2)(b) and § 87(2)(b) were shown the order of custody numerous times and were ordered to open the door and give the children to the mother. However, they continued to act in a disorderly manner. § 87(2)(b) finally opened the door and police was able to gain access. The children were removed one by one and placed in a patrol car with their mother. PO McCarthy placed § 87(2)(b) and § 87(2)(b) in police custody. They were transported back to 88<sup>th</sup> Precinct. At 8:16 p.m., § 87(2)(b) and § 87(2)(b) and § 87(2)(b) were all arrested (Encl. C6-C11).

### **Criminal Court and Arrest Reports**

According to this report, § 87(2)(b) and § 87(2)(b) were all in violation of family court order docket § 87(2)(b). They knowingly had § 87(2)(b)'s children and refused to return them to her. While the police were attempting to conduct an official investigation into the matter, § 87(2)(b) and § 87(2)(b) were interfering with the matter by preventing the officers from having access to the children. The reports also indicated that § 87(2)(b) blocked the door with her body, preventing the officers from entering into the apartment and pushed officer's arm from the door knob. She was § 87(2)(b)

§ 87(2)(b) resisted arrest by flailing her arms and pulling her body out of police custody. § 87(2)(b) also had open warrants. She was charged with § 87(2)(b) (Encl. C12-C23).

### **CCRB Statement**

The CCRB interviewed PO Kimberly McCarthy on March 25, 2010 (Encl. C24-C26).

§ 87(2)(g) An hour after Sgt. Kletzkina arrived, he warned § 87(2)(b) and § 87(2)(b) that if they did not open the door, he would be forced to call ESU in order to break the door down. At this time, Sgt. Kletzkina, PO Omisanya and PO McCarthy went up to the apartment front door. § 87(2)(b) slightly opened the front door of the apartment and PO McCarthy went to hold the door. § 87(2)(b) struck PO McCarthy on the hand in an effort to remove her hand from the door. PO McCarthy then placed § 87(2)(b) in handcuffs. Officers placed § 87(2)(b) in the back of the patrol car with PO Johnson supervising. § 87(2)(b) offered no resistance in her arrest.

When PO McCarthy went back to the apartment, PO Omisanya and Sgt. Kletzkina were still at the door. They were not able to get into the apartment. Sgt. Kletzkina reiterated that he needed to see the children and at this point, § 87(2)(b) picked up one of the children and showed him to Sgt. Kletzkina. Sgt. Kletzkina explained that he needed to see the condition of the apartment. Finally, § 87(2)(b) opened the door, and Sgt. Kletzkina, PO Omisanya and PO McCarthy entered the apartment. PO McCarthy placed § 87(2)(b) in handcuffs. § 87(2)(b) did not resist. § 87(2)(b) resisted by flailing her arms around and both PO McCarthy and PO Omisanya had to place her under control. PO McCarthy held onto one of § 87(2)(b)'s arms and PO Omisanya placed her in handcuffs. No other force was used against § 87(2)(b) and she never complained on any injury. PO McCarthy never spoke discourteously to a female civilian on the scene nor did PO Johnson.

### **Witness Officer: SGT. SCOTT KLETZKIN**

- Sgt. Kletzkina is a § 87(2)(b)-old white male who is 6' tall, weighs 235lbs with brown hair and hazel eyes.
- Sgt. Kletzkina was the patrol supervisor working with PO Ethel Johnson. He worked from 2:50 p.m. to 11:47 p.m. They were in a marked patrol car, #4507.

### **Memo book**

At 7:30 p.m., PO Omisanya and PO McCarthy requested a supervisor to come to § 87(2)(b) regarding a custody dispute. Great grandmother § 87(2)(b) grandmother § 87(2)(b) and aunt § 87(2)(b) refused to release two children to their mother (Lucian § 87(2)(b) had a court order for custody. § 87(2)(b) and § 87(2)(b) had a petition to family court for custody of the children. They refused to allow officers to see whether the children were okay (**Encl. C27-C29**).

### **CCRB Statement**

The CCRB interviewed Sgt. Scott Kletzkin on February 2, 2010 (**Encl. C30-C31**). When Sgt. Kletzkin arrived on the scene, he spent about 15-20 minutes trying to get § 87(2)(b) and § 87(2)(b) to open the apartment door. He added that he if were not allowed inside the apartment to see the children, he would have to get ESU to break the door down. They continued to refuse the officers entry but then eventually they allowed the officers inside the apartment. Sgt. Kletzkin, PO Omisanya and PO McCarthy entered the apartment. Sgt. Kletzkin decided to place § 87(2)(b) and § 87(2)(b) under arrest. The children were taken into custody as § 87(2)(b) was under arrest. The officers collected the children from inside the apartment and not that either § 87(2)(b) or § 87(2)(b) handed the children from inside to the officers outside. Sgt. Kletzkin, PO Omisanya and PO McCarthy all assisted in placing both § 87(2)(b) and § 87(2)(b) in handcuffs. § 87(2)(b) refused to be handcuff and began flailing her arms as she moved towards the kitchen. Sgt. Kletzkin did not recall § 87(2)(b) complaining of being injured.

### **Witness Officer: PO ETHEL JOHNSON**

- *PO Ethel Johnson is a § 87(2)(b)-old black female who is 5'3" tall, weighs 170lbs with black hair and brown eyes.*
- *On October 4, 2009, she worked from 3:00 p.m. to 11:35 p.m. with Sgt. Scott Kletzkin. She was his operator. She was dressed in uniform.*

### **Memo book**

At 7:20 p.m., the officers assigned to sector F of the 88<sup>th</sup> Precinct requested additional officers for a non-emergency to come to § 87(2)(b) in regards to order of protection custody. At 8:17 p.m., three persons were arrested by sector F (**Encl. C32-C33**).

### **CCRB Statement**

The CCRB interviewed PO Johnson on April 28, 2010 (**Encl. C34-C35**). PO Johnson provided a similar testimony to Sgt. Kletzkin. Any discrepancies are noted in the following narrative. PO Johnson was not able to see in the apartment but soon after, Sgt. Kletzkin, PO McCarthy and PO Omisanya went into the apartment and came out with § 87(2)(b) and § 87(2)(b) also in handcuffs. PO Johnson did not recall PO McCarthy making any discourteous comments to a female civilian in the vicinity. PO Johnson never spoke discourteously to a female on the scene. None of the arrested females complained of any injuries in the presence of PO Johnson. PO Johnson and Sgt. Kletzkin transported § 87(2)(b) and the children back to the station house.

### **Medical Records**

Although § 87(2)(b) stated that she went to the § 87(2)(b), there was no record of her being treated at the institution between § 87(2)(b) (Encl. F9).

#### **NYPD Documents**

##### **SPRINT**

On October 4, 2009, at approximately 6:32 p.m., § 87(2)(b) called 911 to report a family dispute where there were no injuries or weapons involved. She added that she would be in front of the location. PO Omisanya and PO McCarthy, both assigned to sector F of the 88<sup>th</sup> Precinct, responded to the scene. Sgt. Kletzkina responded to the scene at 7:35 p.m. At 8:10 p.m., Sgt. Kletzkina requested an additional unit to the scene for transportation to the stationhouse. At 8:17 p.m., § 87(2)(b) and § 87(2)(b) were arrested and transported to the 88<sup>th</sup> Precinct stationhouse. Sgt. Kletzkina transported § 87(2)(b) and their two children to the stationhouse (Encl. D1-D2).

##### **88<sup>th</sup> Precinct Command Log**

This report showed that § 87(2)(b) and § 87(2)(b) arrived at that 88<sup>th</sup> Precinct stationhouse at approximately 8:20 p.m. Their appearances are all noted as being “apparently normal” (Encl. D3-D4)

##### **Prisoner Holding Pen Roster**

This report showed that § 87(2)(b) and § 87(2)(b) were in the cells at approximately 8:30 p.m. on October 4, 2009 and released the following day to Brooklyn Central Booking at approximately § 87(2)(b) (Encl. D8-D9)

##### **Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]

##### **Status of Civil Proceedings**

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of June 25, 2010 with regard to the incident (Encl. F10).

##### **Civilians’ Criminal History**

- § 87(2)(g)  
[REDACTED]

##### **Civilians’ CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) and other than this case, § 87(2)(b) is not associated with any other CCRB complaints (Encl. A2-A3).

##### **Subject Officers’ CCRB History**

- PO Omisanya has been a member of the service for four years and there is one substantiated CCRB allegation against him (Encl. A1):
  - In case 200908472, the CCRB substantiated an allegation of improper frisk and recommended charges. However, the NYPD has not made a final determination regarding the matter.



## Conclusion

### Identification of Subject Officers

- PO Omisanya acknowledged that he interacted with § 87(2)(b)

### Investigative Findings and Recommendations

#### Allegations Not Pleaded

§ 87(2)(b)

[REDACTED]

§ 87(2)(g)

[REDACTED]

#### Allegation A – Force: PO Basil Omisanya used physical force against § 87(2)(b)

§ 87(2)(b) stated that PO Omisanya used physical force against her as he was placing her in handcuffs. From § 87(2)(b)'s own statement, she had initially refused to comply with officers' orders to get into the apartment to get the children and she was not complying with PO Omisanya's order to get off the phone as he was attempting to place her in handcuffs. PO Omisanya, PO McCarthy and Sgt. McCarthy all stated that § 87(2)(b) resisted arrest and was flailing her arms. § 87(2)(g)

[REDACTED]

Team: \_\_\_\_\_

:

Investigator: \_\_\_\_\_ Cordell Hackshaw \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
Title/Signature Print Date